

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2755 OF 2006

Sikandar Mehboob Sayyad Shaikh	Applicant
versus	
The State of Maharashtra	Respondent

Mr.R.V.Gupta for applicant.
Mrs.M.H.Mhatre, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 25th August 2006

PC :

1. The applicant is an accused in CR No.302 of 2004 alleging offences punishable u/ss.452, 457, 395 and 397 of IPC. The applicant has been arrested on 15th September 2004. The case is exclusively triable by Sessions and therefore, it is registered as Sessions Case No.998 of 2004.

2. The submission of the learned advocate for the applicant is that in the entire incident all that the applicant is alleged to have done is that as a Taxi Driver carried some persons to the Branch office of Oriental Bank of Commerce, Khar (West), Mumbai on 16th August 2004. The

complainant has specifically named the persons who have entered the bank, locked the manager and employees in the strong room and thereafter stolen the cash and other documents so also tried to snatch the gold chain.

3. The applicant was, according to the complainant, waiting outside and the persons who came out boarded his vehicle. It is submitted by learned APP that the applicant has not merely facilitated the escape of the other accused but has also taken part in the crime. A total sum of Rs.14,000/- was paid out of which a sum of Rs.3,000/- has been recovered. The offence is serious inasmuch as a branch office of the nationalised bank at a prime location was looted in the broad day light. In such circumstances, no leniency be shown and the application be rejected.

4. Learned APP submits that the antecedents of the applicant are not clean. He has about four cases pending against him. Some of them are enlisting serious offences including u/ss. 399 and 402 of IPC..

5. Learned advocate for the applicant submits

that two cases out of these four pertaining to the alleged abduction of a female pertain to his wife with whom he has been married and they are fairly old. In any event, he has been enlarged on bail and there is no allegation that the conditions have been flouted. Similarly, in other cases also the applicant has been enlarged on bail by the Metropolitan Magistrate. The applicant's advocate submits that the applicant will furnish proof of his residence and hand over copies of election identity card, ration card, driving licence and licence issued as a taxi driver to Khar Police Station and shall also report twice a week till the conclusion of the trial.

6. In my view, considering the role attributed to the applicant in the alleged crime so also the fact that he has been in custody from 15th September 2004 as also the undertaking given above, entitles him to be enlarged on bail. Hence following order.

7. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.302 of 2004 registered at

Khar Police Station, Mumbai subject to furnishing a personal bond of Rs.10,000/- (Rs.Ten thousand only) with one or two local sureties in the like sum;

(ii) As undertaken, the applicant shall hand over before his release copies of election identity card, ration card, driving licence and licence issued as a taxi driver to Khar Police Station. Submission of these documents is condition precedent for release on bail;

(iii) The applicant shall report to Khar Police Station twice a week between 06.00 to 08.00 p.m..

(iv) The applicant shall not leave the limits of Mumbai and Mumbai Suburban City without seeking prior permission from the Trial Court;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)